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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,919	12/11/2001	Andrew B. Baker	18922-05648	9981

758 7590 02/15/2007  
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EXAMINER
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GREIMEL, JOCELYN

ART UNIT	PAPER NUMBER
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3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/15/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/014,919

Applicant(s)

BAKER ET AL.

Examiner

Jocelyn Greimel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-30 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-30 and 34-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 8/11/05, 7/21/03, 7/15/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

1. This communication is in response to Applicant's Response to Restriction Requirement of 28 December 2006. Applicant elected Group I: claims 11-30 and 34-36 without traverse. Group II: claims 31-33 have been withdrawn. Claims 11, 17 and 34 are independent claims.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 11-30 and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolfinger et al (US Patent No. 6,415,259 B1, hereinafter Wolfinger).** In reference to claims 11, 17 and 34, Wolfinger discloses a method, system and apparatus for generating schedules of tasks including:

- a. data representative of tasks and resources for a project (col. 2, line 50+; col. 5, line 1+);

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- b. generating a proposed schedule of tasks for the project responsive to fluctuations of resources utilized to perform the tasks (col. 2, line 50+; col. 3-4; col. 6, line 55);
  - c. evaluating the proposed schedule to estimate an associated cost (col. 2, line 50+; col. 3-4; col. 6, line 55; col. 7, line 27+);
  - d. modifying the proposed schedule responsive to the resource fluctuations and the cost (col. 11, line 4 – col. 14, line 36); and
  - e. outputting the modified proposed schedule for the project (col. 2, line 50+; col. 5, line 1+).
4. In reference to claims 12-16 and 18-30 and 35-36, Wolfinger discloses the following:
- f. wherein evaluating the proposed schedule to estimate the associated cost further comprises using a dynamic programming model (col. 18, line 26+; col. 21, line 11+; *"a workflow engine monitoring operations completing the order entries, dynamically determining operations needed and changes in operations needed for the order entries and determining operation constraints"*);
  - g. wherein evaluating the proposed schedule to estimate the associated cost further comprises using a linear programming model (col. 9, line 17);

- h. wherein generating the proposed schedule includes associating a limitation with each of the resources and producing the proposed schedule responsive to each limitation (col. 6, line 56 – col. 8, line 55; *“the schedule engine can assign tasks to time slots which have gaps which are idle times when no activity is scheduled”*);
- i. wherein generating the proposed schedule includes iteratively reducing the limitation for one of the resources and load-leveling the resources (col. 6, line 56 – col. 8, line 55);
- j. wherein evaluating the proposed schedule includes determining costs associated with the resource fluctuations (col. 6, line 56 – col. 8, line 55);
- k. wherein the costs associated with the resource fluctuations include at least one of the group of resource acquisitions costs, resource disposition costs, incremental costs for resource over-utilization, and incremental costs for resource under-utilization (col. 4, line 15+);
- l. wherein resource acquisition costs include a hiring cost (col. 4, line 15+);
- m. wherein resource disposition costs include a firing cost (col. 4, line 15+);
- n. wherein incremental costs for resource over-utilization include an overtime cost (col. 4, line 15+);
- o. wherein incremental costs for resource under-utilization include an idle resource cost (col. 7, line 59+);
- p. wherein generating the proposed schedule comprises identifying an admissible window in the proposed schedule for each task and iteratively placing

each task within the proposed schedule responsive to the admissible window, a priority of the task, and a cost of at least part of the proposed schedule having the task placed therein (abstract; col. 2, line 50+);

q. wherein evaluating the proposed schedule comprises examining one of the tasks to estimate the cost associated with the proposed schedule responsive to moving the task within a window describing allowable locations of the task in the schedule (abstract; col. 2, line 50+);

r. wherein the resource fluctuations are determined by using a profile for each of the resources (abstract; col. 2-4).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

s. **Sisley et al. (US Patent No. 5,467,268)**

t. **Crone (US Patent No. 7,092,894 B1).**

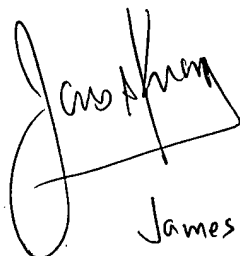
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, James Kramer can be reached at (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
February 1, 2007

 2/5/07  
James Kramer